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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520
7590	03/23/2004		EXAMINER	
JAY H MAIOLI COOPER & DUNHAM 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			LIN, KENNY S	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

P29

Office Action Summary	Application No.	Applicant(s)
	09/462,789	YODO ET AL.
	Examiner	Art Unit
	Kenny Lin	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,6-11 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,6-11 and 16-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 6-11, 16-21 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, in view of Raju et al, U.S. Patent Number 6,067,541.

4. Morioka et al and Raju et al were cited in the previous office actions.

5. As per claim 1, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

- a. A recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 8-13, 46-52, col.2, lines 19-22, col.8, lines 22-29, 45-49, col.18, lines 8-11); and a second management area for recording management

data for identifying said recording medium (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67);

- b. A recording and reproducing portion recording and reproducing data from said storing portion and for transmitting said management data (col.2, lines 19-226, 31-35, col.3, lines 9-14, col.18, line 65 to col.19, line 6, col.19, lines 15-36); and
- c. A signal generating portion for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data programs are reproduceable by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-66, col.11, lines 20-32, col.12, lines 2-5);

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

6. Morioka et al did not specifically teach that wherein said index data is an imperfect index data so that said data programs are unreprouceable from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al

because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreplicable in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

7. As per claim 11, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

- a. A recording and reproducing portion, including a recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 8-13, 46-52, col.2, lines 19-22, col.8, lines 22-29, 45-49, col.18, lines 8-11), and a second management area for recording management data for identifying said recording medium (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67), and said recording and reproducing portion records and reproduces data to/from said storing portion and transmits said management data (col.2, lines 19-226, 31-35, col.3, lines 9-14, col.18, line 65 to col.19, line 6, col.19, lines 15-36); and
- b. A server unit (col.18, lines 1-7, 34-42) having a signal generating portion for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data program are reproducible by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-66, col.11, lines 20-32, col.12, lines 2-5),

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

8. Morioka et al did not specifically teach that wherein said index data in the management area is an imperfect index data so that said data programs are unreplicable from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreplicable in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

9. As per claim 7, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit connected to the recording and reproducing portion and a server unit containing the signal generating portion that the server unit is being connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

Art Unit: 2154

10. As per claim 8, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit containing the signal generating portion, the terminal unit being connected to the recording and reproducing portion and a server unit connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

11. Claims 6, 9-10 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, Raju et al, U.S. Patent Number 6,067,541, as applied to claims 1 and 11 above, and further in view of Russo, U.S. Patent Number 5,619,247.

12. Russo was cited in the previous office action.

13. As per claims 6 and 16, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Raju et al further taught wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies said perfect index data to said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Morioka et al and Raju et al did not specifically teach to include a charge processing portion for performing a charging process before said signal generating portion generates said perfect index data. Russo taught to have a charge processing portion for performing a charging process (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of

Art Unit: 2154

ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

14. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion generates the perfect index data. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to generate the permission signal after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproducing permission is granted.

15. As per claims 9 and 17, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Morioka et al further taught to have the signal generating portion supplies data to the recording and reproducing portion (col.4, lines 57 to col.5, line 7, col.15, lines 9-12, 19-26). Morioka et al did not specifically teach that the data supplied is perfect index data. Raju et al taught to rewrite perfect index data (col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al' teaching of replacing perfect index

data with a corrupted index data help to correct the errors of corruption in Morioka et al's apparatus. Morioka et al and Raju et al did not specifically teach to include a charge processing portion wherein when the recording and reproducing portion reproduces the stored content data, the recording and reproducing portion supplies a charging process signal to the charge processing portion so that the charge processing portion performs the charging process. Russo taught to have a charge processing portion (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

16. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion supplies the permission signal to the recording and reproducing portion. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to supply the permission signal to the recording and reproducing portion after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproduced.

17. As per claims 10 and 18, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claims 9 and 17. Raju et al further taught that wherein the storing portion stores and said perfect index data along with said data programs, and said recording and reproducing portion rewrites said imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Russo further taught that wherein the storing portion stores the charging process signal and said perfect index data along with the data programs (col.4, lines 47-53).

18. As per claim 19, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 17. Morioka et al further teach that recording and reproducing portion is connected to the server unit through a communication network (col.18, lines 1-7, 34-42). Morioka et al and Raju et al did not specifically teach that a charge processing portion connected to recording and reproducing portion. However, a charge processing portion connected to recording and reproducing portion is rejected for the same reason in claim 17 using Russo.

19. As per claim 20, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 19. Morioka et al, Raju et al and Russo did not specifically teach to include identification data for the terminal unit. However, it is well known in the art to use authenticating process to gain Network security and also to verify proper user account information using identification data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide authenticating process to check identification

data for the terminal unit to Morioka et al, Raju et al and Russo's reproducing apparatus to ensure Network security and verify proper billing information.

20. As per claim 21, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 20 including that charge processing portion connected to said server unit through said communication network (see claim 19 rejection) and charge processing portion performs charging process (see claim 17 rejection). Raju et al further taught rewrite imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9).

Conclusion

21. Applicant's arguments filed 1/30/2004, with respect to claims 1, 6-11 and 16-21 have been considered but are moot in view of the new ground(s) of rejection.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-6121.

ksl
March 16, 2004



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100